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EXAMINER	
NAJARIAN, LENA	
ART UNIT	**PAPER NUMBER**
3626	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/825,141	KAPP, THOMAS L.	
	Examiner	Art Unit	
	Lena Najarian	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-53* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 August 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: items 1100 & 1102 (page 18, lines 20 & 28). Corrected drawing sheets in compliance with 37 CFR 1.121 (d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: item 2002 (Fig. 20), item 1204 (Fig. 17), and item 1308 (Fig. 19). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because its length exceeds 150 words and because of language used, such as "disclosed" at line 2. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 16-35 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 16-35 and 39 repeat the limitations for which there is no antecedent basis in the claims. In particular, the following passages lack or have vague antecedent basis:

(i) "said first and accessing steps": claim 16, line 11

claim 39, line 10

(ii) Claims 17-35 incorporate the deficiencies of claim 16, through dependency, and are also rejected.

(iii) "the telephonic communication device": claim 32, lines 1-2

claim 33, lines 1-2

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-32, 35-42, 44-45, and 47-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Mayaud (5,845,255).

(A) Referring to claim 1, Mayaud discloses a method for operating a drug database system, said method comprising the steps of:

(a) providing a database of drug information (col. 5, lines 44-48 of Mayaud);

(b) facilitating selective access to said database by a first user via communication links (col. 45, lines 56-63 and col. 18, lines 15-18 of Mayaud);

(c) receiving information from said at least one first user upon access (col. 38, lines 27-37 of Mayaud); and

(d) supplying drug output information in response to said received information (col. 38, lines 37-52 of Mayaud).

(B) Referring to claim 2, Mayaud discloses wherein said step of supplying drug output information supplies said information to said first user (col. 38, lines 33-45 of Mayaud).

(C) Referring to claim 3, Mayaud discloses wherein said first user is in a group including other users and said step of supplying drug output information supplies said information to one other user in said group that is associated with said first user (col. 38, lines 53-64 of Mayaud).

(D) Referring to claim 4, Mayaud discloses wherein said facilitating, receiving and supplying steps are performed in real time (col. 5, lines 44-48 of Mayaud).

(E) Referring to claims 5-8, Mayaud discloses wherein said first user is a physician (col. 10, lines 24-26 of Mayaud), wherein said first user is a pharmacist (col. 28, lines 14-17 of Mayaud), wherein said first user is a nurse (col. 31, lines 5-9 of Mayaud), and wherein said first user is a patient (col. 18, lines 6-19 of Mayaud).

(F) Referring to claim 9, Mayaud discloses the step of facilitating selective access to said database by a second user, said selective access permitting said second user to modify the drug information stored in said database (col. 12, lines 45-56 and Fig. 20, item 123 of Mayaud).

(G) Referring to claim 10, Mayaud discloses wherein said step of facilitating selective access to said database by a second user is done in real time (col. 5, lines 44-48 of Mayaud).

(H) Referring to claim 11, Mayaud discloses wherein said second user is a drug manufacturer (col. 26, lines 15-20 of Mayaud).

(I) Referring to claim 12, Mayaud discloses wherein said second user is a drug researcher (col. 48, lines 19-22 of Mayaud).

(J) Referring to claim 13, Mayaud discloses wherein said received information includes a drug name (col. 25, line 64 - col. 26, line 5 of Mayaud).

(K) Referring to claim 14, Mayaud discloses wherein said received information includes a name of a medical malady (col. 26, lines 1-5 of Mayaud; the Examiner interprets "condition" to be a form of "medical malady").

(L) Referring to claim 15, Mayaud discloses wherein said received information includes information about certain drugs and the output information includes information about adverse side effects of taking said certain drugs (col. 31, lines 19-35 of Mayaud).

(M) Referring to claim 16, Mayaud discloses a method for providing patient specific drug, dosing, drug interaction analysis and order generation comprising the steps of (col. 4, lines 29-41 and col. 13, lines 3-6 of Mayaud):

(a) providing a drug management program executed by a computer system (col. 1, lines 7-18 of Mayaud);

(b) providing a plurality of communicating links for connecting users via a communication device to said system (col. 45, lines 56-63 and col. 7, lines 24-29 of Mayaud);

(c) accessing said drug management program by a first user to enter adverse drug affects information (col. 14, lines 10-37 of Mayaud); and

(d) accessing said drug management program by a second user to enter patient drug dosing information (col. 14, lines 10-37 of Mayaud);

wherein said first and second accessing steps are order independent (col. 14, lines 10-37 of Mayaud).

(N) Referring to claim 17, Mayaud discloses including the step of interacting said first user with said second user in real time to update drug information on said drug management program wherein said first user is a pharmacist and said second user is a physician (see abstract, col. 4, lines 29-43, and col. 5, lines 44-48 of Mayaud).

(O) Referring to claim 18, Mayaud discloses the step of interacting said first user with said second user in real time to update drug information on said drug management program wherein said first user is a drug company and said second user is a physician (col. 27, lines 31-50 and col. 5, lines 44-48 of Mayaud).

(P) Referring to claim 19, Mayaud discloses the step of requesting adverse drug information on said drug management program by said first user with said second user

in real time wherein said first user is a pharmacist and said second user is a drug company (col. 31, lines 19-49 and col. 5, lines 44-48 of Mayaud).

(Q) Referring to claim 20, Mayaud discloses the step of accessing a patient data matching database for matching patients to specific drug therapies of other patients in the same disease or medical condition class (col. 8, lines 17-23 and col. 4, lines 56-60 of Mayaud; the Examiner interprets "classified according to..." to be a form of "matching").

(R) Referring to claim 21, Mayaud discloses the step of interacting multiple users in real time to generate patient matching (col. 7, lines 13-20, col. 5, lines 44-48, and col. 4, lines 56-60 of Mayaud).

(S) Referring to claim 22, Mayaud discloses a step of interacting in real time multiple users to update patient or drug information (col. 7, lines 13-20, col. 5, lines 44-48, and Fig. 21, item 115 of Mayaud).

(T) Referring to claim 23, Mayaud discloses a step of linking a formulary of medications approved by a third-party payer to a physician (col. 1, line 59 - col. 2, line 11 of Mayaud).

(U) Referring to claim 24, Mayaud discloses said linking step further includes interacting said physician in real time with said third-party payer wherein said physician can request approval of payment for medication (col. 36, lines 31-52 of Mayaud).

(V) Referring to claim 25, Mayaud discloses further including a step of accessing said drug management program for drug information on a medication wherein said user selects a drug and said a drug management program provides said user with an

advisory guideline and therapies for said drug (col. 12, lines 35-49 and col. 5, lines 3343 of Mayaud).

(W) Referring to claim 26, Mayaud discloses further including a step of continually updating guidelines and therapies for said drug (col. 47, lines 47-57 and col. 29, lines 51-65 of Mayaud).

(X) Referring to claim 27, Mayaud discloses further including the step of effecting physician requested drug order in real time to a pharmacist (col. 4, lines 29-34 of Mayaud).

(Y) Referring to claim 28, Mayaud discloses further including a step of linking a physician to a healthcare unit wherein said physician orders x-rays or laboratory tests for a patient (col. 51, line 65 - col. 52, line 11 of Mayaud).

(Z) Referring to claim 29, Mayaud discloses wherein the communication device communications through an electronic communication network (col. 7, lines 13-20 of Mayaud).

(AA) Referring to claim 30, Mayaud discloses wherein the electronic communication network is selected from the group consisting of the internet, telephone, satellite, cellular switch, cable, computer, optical or wireless (col. 3, lines 37-53 of Mayaud).

(BB) Referring to claim 31, Mayaud discloses wherein the electronic communication network is a telephone communication network (col. 48, lines 9-13 of Mayaud).

(CC) Referring to claim 32, Mayaud discloses wherein the telephonic communication device is a touch tone phone (col. 7, lines 57-67 of Mayaud).

(DD) Referring to claim 35, Mayaud discloses the step of checking drug dosage (col. 4, lines 29-40 of Mayaud).

(EE) Referring to claim 36, Mayaud discloses a pharmaceutical drug management care system for providing a patient specific drug, dosing, drug interaction analysis and order generation said system comprising (col. 4, lines 29-41 and col. 13, lines 3-6 of Mayaud):

(a) at least one communication device (col. 7, lines 24-29 of Mayaud);

(b) at least one communication link (col. 45, lines 56-63 of Mayaud); and

(c) a computer having a processor, a database and adapted by patient drug dosing software to include (col. 53, line 62 - col. 54, line 3 and col. 14, lines 10-31 of Mayaud):

(i) at least one data entry engine (col. 4, lines 50-55 of Mayaud);

(ii) an order generator (col. 4, lines 29-34 of Mayaud; the Examiner interprets "electronic prescription creation" to be a form of "order generator");

(iii) a kinetic drug doser (col. 31, lines 50-54 and col. 4, lines 29-43 of Mayaud); and

(iv) a database retrieval and recording engine (col. 8, lines 49-63 of Mayaud).

(FF) Referring to claim 37, Mayaud discloses a therapy coordination engine (col. 5, lines 35-43 of Mayaud).

(GG) Referring to claim 38, Mayaud discloses a means of updating the system with a back up remoter version of web-based medication management system when the

internet is down wherein said system is updated with information from the local version of the medication management system on the computer (col. 11, lines 57-64 and col. 48, lines 1-8 of Mayaud).

(HH) Referring to claim 39, Mayaud discloses (a) a drug management program executed by a computer system (col. 1, lines 7-18 of Mayaud);

(b) a plurality of communicating links for connecting users via a communication device to said system (col. 45, lines 56-63 and col. 7, lines 24-29 of Mayaud);

(c) a means for accessing said drug management program by a first user to enter adverse drug affects information; and

(d) a means for accessing said drug management program by a second user to enter patient drug dosing information; wherein said first and second accessing steps are order independent (col. 14, lines 10-37 of Mayaud).

(II) Referring to claim 40, Mayaud discloses a means for interacting multiple users in real time to update drug information (col. 5, lines 44-48, col. 7, lines 13-20, and Fig. 21, item 115 of Mayaud).

(JJ) Referring to claim 41, Mayaud discloses a means for requesting adverse drug information by multiple users (col. 14, lines 11-24 of Mayaud).

(KK) Referring to claim 42, Mayaud discloses a server processor wherein said processor is a gateway function that provides the users access to an environment (col. 7, lines 30-35 of Mayaud).

(LL) Referring to claim 44, Mayaud discloses wherein the users consist of physicians, pharmacists, patients, healthcare provider or drug companies (col. 4, lines 29-34 of Mayaud).

(MM) Referring to claim 45, Mayaud discloses wherein said environment is a distributed file system service, web-based, cable, or wireless (col. 54, lines 4-10 of Mayaud).

(NN) System claims 47-49 and 51-53 repeat the subject matter of claims 20, 23-24, and 26-28 as a set of "means-plus-function" elements rather than a series of steps. As the underlying process has been shown to be fully disclosed by the teachings of Mayaud in the above rejection of claims 20, 23-24, and 26-28, it is readily apparent that the Mayaud reference includes a system to perform the recited functions. As such, these limitations are rejected for the same reasons provided in the rejection of claims 20, 23-24, and 26-28 and incorporated herein.

(00) Referring to claim 50, Mayaud discloses a means for accessing said pharmaceutical drug management care system for drug information on a medication wherein said user selects a drug and said pharmaceutical drug management care system provides said user with an advisory guideline and therapies for said drug (col. 12, lines 35-39 and col. 5, lines 33-43 of Mayaud).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud (5,845,255) in view of Katz (5,495,284).

(A) Referring to claim 33, Mayaud does not disclose wherein the telephonic communication device is a videophone.

Katz discloses wherein the telephonic communication device is a videophone (col. 1, line 67 - col. 2, line 1 of Katz).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Katz within Mayaud. The motivation for doing so would have been to enable users to virtually communicate from remote locations (col. 1, line 67 - col. 2, line 1 of Katz).

10. Claim 34 rejected under 35 U.S.C. 103(x) as being unpatentable over Mayaud (5,845,255) in view of Heinonen et al. (5,772,586).

(A) Referring to claim 34, Mayaud does not disclose wherein the electronic communication device includes a wireless short message service message, and the wireless short message service is configured to respond to receipt of medical data for a patient by forwarding a message to a wireless receiver corresponding to the medical data for a patient.

Heinonen discloses wherein the electronic communication device includes a wireless short message service message, and the wireless short message service is configured to respond to receipt of medical data for a patient by forwarding a message to a wireless receiver corresponding to the medical data for a patient (col. 4, lines 1-27 of Heinonen).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Heinonen within Mayaud. The motivation for doing so would have been for the doctor treating the patient to have access at all times to pertinent information regardless of his/her location (col. 4, lines 24-27 of Heinonen).

11. Claim 43 rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud (5,845,255) in view of Iliff (6,022,315).

(A) Referring to claim 43, Mayaud does not disclose wherein the gateway function is a Web server.

Iliff discloses wherein the gateway function is a Web server (col. 74, lines 37-44 of Iliff).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Iliff within Mayaud. The motivation for doing so would have been to be able to view documents in a web-based format.

12. Claim 46 rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud (5,845,255) in view of Tello et al. (6,032,118).

(A) Referring to claim 46, Mayaud does not disclose wherein said environment uses software or hardware for maintaining a virtual network.

Tello discloses wherein said environment uses software or hardware for maintaining a virtual network (Fig. 1 and col. 2, lines 35-47 of Tello).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Tello within Mayaud. The motivation for doing so would have been to provide remote and secure access into the system (col. 1, lines 26-29 of Tello).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a disease management system and method (US 6,234,964 131) and a prescription creation system (5,737,539).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALEXANDER KALINOWSKI
PRIMARY EXAMINER

In
6-3-05